

PLACER COUNTY GRAND JURY

The Fair and the unfair:

A History of Continuous Neglect

Report Date: March 20, 2012

Summary

This report deals with the legality of present and past contracts between Placer County and the Placer County Fair Association (Association) to operate and manage the County Fair, including the All American Speedway (Fair), and the lax and negligent enforcement of the law and the contract by Placer County.

The report details why the current contract is in violation of the law, demonstrates the County's history of failing to comply with this same law, shows how the County has been negligent in monitoring Association compliance with the current contract, shows how this County negligence has permitted the Association to make significant structural modifications to the Speedway without getting prior County approval, explains the major environmental problems that have resulted from these significant modifications, demonstrates how the Association has wrongfully shifted costs from itself to County taxpayers, demonstrates how the Association has continued to benefit from its own wrongdoing and the County's negligence and points out the serious financial threat to the Association's ability to run the Fair because the State has terminated its annual financial support for the Placer County Fair.

Finally, the report recommends: that the current contract be terminated, that the County explore the availability of alternative non-profit agencies to run the Fair, that the County refuse to approve any new contract without the environmental protections deemed necessary by the County, that the County verify all future contracts for compliance with the law before they are approved, that a contract compliance monitor be appointed immediately for any new contract, and that the County provide no financial assistance, including a line of credit, to the Association or any successor organization unless such organization incorporates into its contract to run the Fair the environmental protections deemed necessary by the County to deal with Speedway generated environmental problems.

Background

In the process of reviewing the Responses to the 2010-2011 Grand Jury Final Report on the All American Speedway Noise, the current Grand Jury read the contract cited in that Report and noted the State statute cited as the authority for the contract. The statute, Government Code §25905 (§25905) provides that no such contract shall be for a period exceeding five years. The contract between the County and the Association covered a six year period (January 1, 2002 to December 31, 2007) and provided that it would remain in effect from year to year thereafter so long as neither party served written notice of non-renewal. Despite this statutory limitation of five years, the current contract has now been in effect for over ten years.

Considering that there may be a mistake in the contract reference to §25905, the 2011-2012 Grand Jury verified the accuracy of this citation and found there was no mistake. Multiple written responses from County officials to last year's Grand Jury Report all cited §25905 as the contract's

authorizing statute. Moreover, all County and Association officials interviewed by the 2011-2012 Grand Jury identified §25905 as the authorizing statute for the contract.

To determine whether there was any prior history of the County ignoring statutory limitations, the Grand Jury examined one of the preceding contracts to run the Fair between the County and the Association and discovered that there was a history of violating this statute. In 1983, the County contracted with the Association, again under the authority of §25905, and this contract, which began on January 1, 1983, remained in effect through June 30, 1993, a period of over ten years.

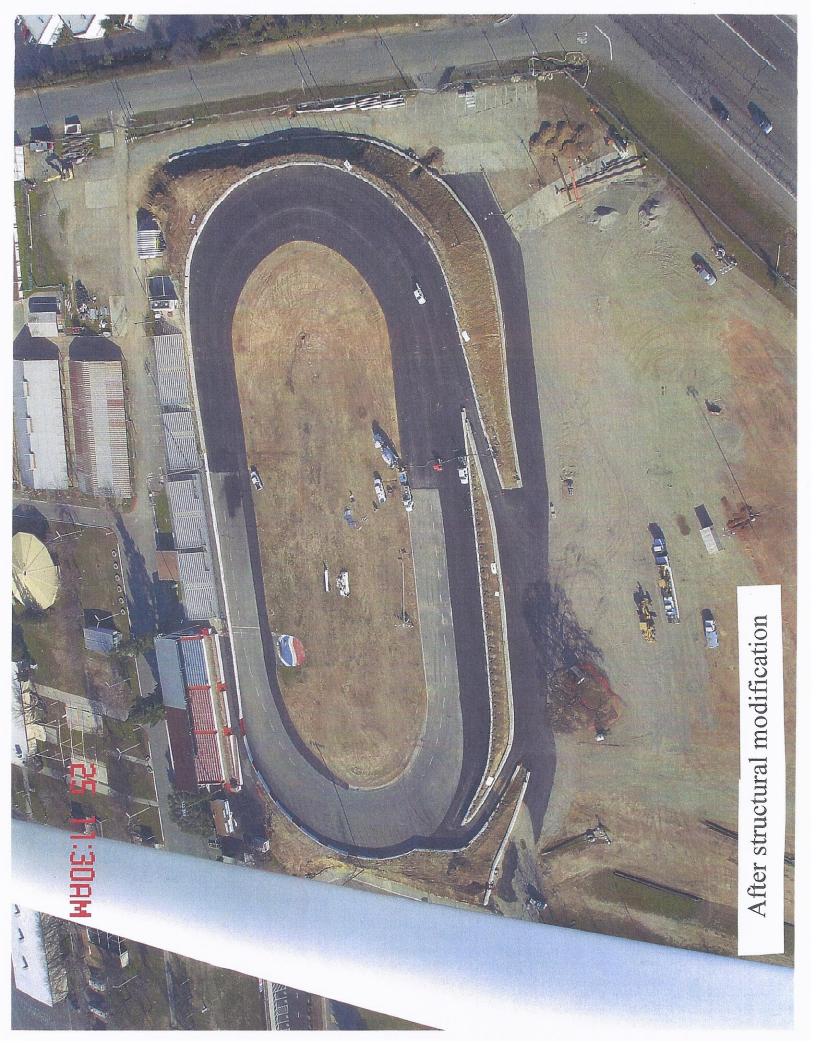
The current contract requires the Association to get prior County approval before it makes construction modifications to any Fair facilities, including the Speedway. Yet, as set forth in detail in last year's Grand Jury Report, in 2006-2007 the Association made significant structural modifications to the Speedway without getting prior approval. Numerous County officials acknowledged this violation of the contract by the Association in their written responses to the 2010-2011 Grand Jury Final Report on All American Speedway Noise and during their interviews with the 2011-2012 Grand Jury. Even the Association official interviewed by the Grand Jury acknowledged this violation. Despite this material violation of contract by the Association and the magnitude of the structural modifications made, the County took no action to terminate the contract.

The County did not discover on their own that modifications were being made because no one was designated by the County to monitor compliance with the terms of the Contract. The County only discovered that these major structural modifications to the Speedway had been made after being told so by City of Roseville planning staff. Several County officials acknowledged during interviews with the 2011-2012 Grand Jury, that no contract compliance monitor had been designated.

After the structural modifications to the Speedway occurred in 2006-2007, numerous complaints were made by residents in the immediate vicinity of the Speedway about noise levels from the racers and PA system, air pollution, hours of Speedway operation, and traffic congestion. To address these complaints, County officials drafted a revised contract that included additional safeguards, controls, and oversight by the County. The Association refused to sign the revised contract. The County allowed the existing contract to remain in effect rather than insisting on a revision or cancellation of the contract. From 2007 to the present, a period of nearly five years, the Association has continued to oppose any additional safeguards, controls, or oversight. During that same period, the County failed to terminate the contract whether for violation of its provisions, violation of the authorizing statute, or failure to include the safeguards, controls, and oversight necessary to protect the public. Moreover, the costs of the environmental studies that are currently under way are being paid by County taxpayers and not by the Association. Had the Association sought prior approval by the County and gone through the required environmental studies it would have been responsible for bearing those costs.

¹ The 2011-2012 Grand Jury inspected the Speedway to confirm the magnitude of these structural modifications. The two following photographs depict the Speedway prior to and after the structural modifications were made.





Finally, County taxpayers may now be asked to pay additional costs to support the County Fair. The State has terminated its annual financial support of approximately \$135,000; and the Association has requested a line of credit with Placer County because it has no money to replace the State's contribution. In fact, the Association was so financially strapped in 2010 that some of its Board members used their personal lines of credit to meet Association year-end payroll demands.

Investigation Methods

The Grand Jury reviewed the Final Report of the 2010-2011 Grand Jury on All American Speedway Noise and all of the responses to that Report from Placer County officials.

The Grand Jury interviewed a number of Placer County officials responsible for contract initiation and compliance, and officials from the Fair Association.

The Grand Jury reviewed numerous documents provided by Placer County officials pertaining to current and past contracts between the County and the Association, pertaining to Association finances, and pertaining to resident complaints about environmental problems generated by the 2006-2007 Speedway modifications.

The Grand Jury inspected the All American Speedway with officials from the Association and reviewed numerous photographs that depicted the Speedway prior to and after the 2006-2007 structural modifications.

The Grand Jury researched available information relative to the Speedway.

Facts

- Government Code §25905 authorizes each County to contract with a non-profit corporation or association, for a period not to exceed five years, to conduct, operate and manage a County agricultural fair.
- On July 23, 2002, the Placer County Board of Supervisors approved a five year contract with the Association to operate and manage the County Fair. Even though the Board minutes note that a five year contract was approved, the dates listed in the minutes were for a six year period from January 1, 2002 to December 31, 2007.
- The contract cites §25905 as the authority for the contract. The contract provides that it is to run from January 1, 2002 to December 31, 2007, (a six year period). In addition, it provides that it is

to remain in effect indefinitely after December 31, 2007, unless either party serves written notice of non-renewal of the contract.

- Neither party has served written notice of non-renewal, so the contract, over ten years after it began, still remains in effect.
- Numerous County officials provided written responses to the Grand Jury's 2010-2011 Final Report on All American Speedway Noise. Every response cited §25905 as the statutory authority on which the current contract is based.
- Every County and Association official interviewed by the Grand Jury referred to §25905, which
 is cited in the contract, as the authority on which the contract between the County and the
 Association is based.
- There is a history of the County ignoring the five year limitation contained in the statute authorizing such contracts. A preceding contract for the Association to operate and manage the Fair was approved by the Board of Supervisors on March 1, 1983. This contract also cited §25905 as its authorizing statute. The contract began on January 1, 1983, ended on February 28, 1983, was extended until June 30, 1983, and provided that it would be renewed annually thereafter unless either party served written notice of non-renewal. The contract stayed in effect through June 30, 1993, a period of ten years and six months.
- The current contract requires the Association to obtain prior approval from the County before
 engaging in construction or modification of facilities located within the fairgrounds. All County
 officials interviewed by the Grand Jury confirmed knowledge of this fact.
- The current contract authorizes the County to terminate the contract if the Association fails to comply with its terms.
- County officials confirmed that no one was designated by the County to monitor the Association's compliance with the terms of the contract.
- In 2006-2007, without prior approval from the County, the Association made the following
 modifications to the Speedway: it was extended 70 feet in length; it was widened by 30 feet along
 one side; the north embankment was widened and heightened; the pits were relocated from the
 area immediately north of the Speedway to the east and outside of the Speedway; the race car
 entrance and exit to the Speedway were relocated to the other side of the raceway, and the sound
 walls were rebuilt and extended.
- County officials have stated that they were unaware that these major structural modifications
 were planned and learned about them only after they had been completed and Roseville City
 officials called the modifications to their attention.

- These major structural modifications made to the Speedway in 2006-2007 generated numerous
 environmental complaints about noise, hours of operation, air pollution, and traffic congestion by
 residents living in the vicinity of the Speedway. Nevertheless, the Association refused to
 incorporate any additional safeguards, controls, or oversight into a revised contract as requested
 by the County to deal with the new environmental problems.
- This stalemate has continued for over five years yet the County has taken no action to terminate
 the current contract whether for violation of the prior approval requirement, violation of the five
 year statutory limitation on such contracts, or continued failure of the Association to agree to
 incorporate any additional safeguards, controls, or oversight into the contract.
- Instead, the County has continued to allow the Association to operate the Speedway with no
 additional safeguards, controls, or oversight to deal with the significant and heightened
 environmental problems the Association itself created by violating its own contract with the
 County.
- Had the Association sought prior approval from the County, as it was required to do by the terms
 of its contract, the Association would have been responsible for the costs of any environmental
 studies required.
- The costs of completing the environmental studies have now effectively been shifted to the County taxpayers. Studies which should have been done prior to any structural modifications to the Speedway still must be completed. The Association maintains it does not have the funds to pay for them. One County official interviewed by the Grand Jury estimated that the costs of these studies will be between \$80,000 and \$100,000.
- The annual budget of the Fair Association to conduct, manage and operate the Fair, including the Speedway, is about 1.4 million dollars.
- Approximately 60% to 70% of the Fair Association's annual budget to conduct, manage and operate the Fair comes from revenues generated by the Speedway.
- Placer County provides between \$25,000 and \$35,000 in annual support to the Fair Association.
- Because of the fiscal crisis, the State of California has withdrawn its annual financial support of approximately \$135,000 to Placer County to run the Fair.
- Because of financial pressures in 2010, members of the Fair Association Board used personal lines of credit to help the Association meet year-end payroll demands.
- Because of these continuing financial pressures, the Fair Association has asked Placer County to
 extend a line of credit to the Association to run the Fair

Findings

- F1. The current contract that the County has with the Association to run the County Fair is illegal because it violates the five year limitation for such contracts contained in §25905.
- F2. The County has a history of failing to comply with this same statutory limitation. A preceding contract that the County had with the Association to run the County Fair stayed in effect from January 1, 1983, through June 30, 1993, a period of ten years and six months. Accordingly, this preceding contract also violated the five year limitation for such contracts contained in §25905.
- F3. The County has been negligent in failing to comply with the five year contract limitation contained in §25905.
- F4. The County has been negligent in failing to appoint a County employee to monitor the Association's compliance with the terms of the current contract to run the Fair.
- F5. This negligent lack of oversight allowed the Association to wrongfully make the major structural modifications to the Speedway that produced the numerous environmental problems that the County now faces.
- F6. The County's continuing failure to enforce the five year contract limitation and the County's failure to terminate the contract for a major breach of its provisions, has allowed the Association to benefit from its own wrongdoing. The contract continues to be in effect indefinitely; the Association continues to resist any of the safeguards, controls, or oversight the County believes necessary to deal with the environmental problems created by these wrongful modifications, and the Association has shifted responsibility for the cost of the environmental studies that it should have borne, had it sought proper approval, to the County taxpayers.
- F7. The termination of State financial support for the Placer County Fair threatens the ability of the Association to conduct, manage, and operate the annual Placer County Fair without significant additional financial support from Placer County.

Recommendations

The Grand Jury recommends:

R1. The Board of Supervisors, within 60 days, terminate the current contract with the Association to operate and manage the Fair, including the Speedway, because it violates the five year contract limitation contained in §25905.

- R2. The Board of Supervisors immediately explore the availability of an alternative non-profit corporation or association to operate and manage the Fair, including the Speedway, by soliciting proposals from alternative groups.
- R3. The Board of Supervisors refuse to approve any new contract to operate and manage the Fair, including the Speedway, unless the contract includes the safeguards, controls, and oversight thought necessary by County officials to protect the public.
- R4. The Board of Supervisors immediately adopt a policy applicable to all contracts that mandates designation of a specific County employee to monitor compliance with the terms of the contract by each of the parties.
- R5. The Board of Supervisors direct County Counsel to verify that all future contracts submitted to the Board for approval fully comply with the provisions of the statute that authorizes the contract.
- R6. The Board of Supervisors not provide additional financial support, including a line of credit, for the annual Placer County Fair unless proper environmental protections deemed necessary by the County to deal with Speedway generated environmental problems are incorporated into the contract to run the fair.

Request for Responses

Placer County Board of Supervisors, #R1, R2, R3, R4, R5, R6

Due by June 20, 2012

175 Fulweiler Avenue

Auburn CA 95603

Tom Miller, CEO

#R1, R2, R3, R4, R5, R6

Due by June 20. 2012

Placer County Executive Office

Auburn, CA 95693

Jim Durfee, Director

#R1, R2, R3, R4, R5, R6

Due by June 20, 2012

Department of Facilities

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Auburn CA 95603

Copies Sent To

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Roseville, CA 95678

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Community Development Resource Agency

3091 County Center Drive Ste. 280

Auburn, CA 95603

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Roseville, CA 95678

City Manager

City of Roseville

311 Vernon Street

Roseville, CA 95678